A LEGAL

RESOLUTION

OF TWO

Important Quæres

Of general present Concernment.

Clearly demonstrating from our *Statute*, *Common*, and *Canon Laws*, the bounden duty of Ministers, & Vicars of *Parish-Churches*, to administer the Sacraments, as well as to preach to their Parishioners; with the Legal Remedies to reclaim them from, or punish and remove them for their wilfull obstinacy in denying the Sacraments to them.

By William Prynne *Esq*; *a Bencher of* Lincolns Inne; *to whom these Quæres were newly propounded by some Clyents.*

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LONDON, Printed by *F. L.* in the Year, 1656.

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A *Legal Resolution* of Two *Important Quæres* of general present *Concernment, &c.*

The Case and Quæres propounded.

A. *Is presented, instituted, inducted to the* Vicaridge and Parish Church of B. *having immediate and sole Cure of Souls (the Rectory being impropriate) and receives the whole Profits thereof from the Parishioners to whom he usuall preacheth; but yet (after many freindly Sollicitations and Meetings) peremtorily denieth publikely to administer the Sacraments of the Lords Supper and Baptism to the Major part of the Parishioners*; or *to any of them, as his Parishoners*; but only to *some few in private, as* Members of his New-gathered Congregation; *to the great Discontent, Grief, Injury of the Generality of the Parishioners.* Who thereupon desire to be resolved,

1. *Whether* A. *their Vicar*, by the *Laws of* England, *accepting of this* Parochial Vicaridge and Cure, *and receiving the* Profits *thereof, be not in Point of Right, Justice, Law, Equity*, Ex Officio mero, *obliged duly to administer the Sacraments publikely to the Parishioners in the Church, as fitting and formerly accustomed times*, as well as *to preach unto them, and that in proper person, if in health and required?*

2. *Whether the* Parishioners *may not now legally prose-*

cute A. for his obstinate peremptory refusal to administer the Sacraments publikely, personally, and duly to them? To what penalties A is lyable for this contemptuous neglect of his duty towards them? And what Legal Course is best for the Parishioners to prosecute for their just relief herein, in these distracted times?

The Resolution returned to the Propounded Case, and Quæres.

These Quæres being of Great Moment and Universal concernment to all Ministers, Vicars, and Parishioners throughout the Nation; & not debated to my knowledg in any Printed Law-books or Reports, I shall be more copious in the Resolution of them for my own Satisfaction, as well as your Resolution, whom they so much concern; this being like to prove a leading Case to many others in like condition.

To your first Question, I return this Answer. 1. That it is the General received Opinion, Resolution of all * *Councils, Fathers, Canonists, Casuists, Schoolmen, Divines*, Antient or Modern, Papists or Protestants, (whether *Lutherans, Calvinists, Presbyterians*, or *Independents*) I have seen; and the expresse Resolution of the Church of *England*, both in antient & modern *Councils, Synods, Canons, Injunctions, the Book of Ordination, Common Prayer, Articles of Religion, A. 23.26. Homilies*, and late *Directory*; That all Ministers, Presbyters, Priests, whatsoever, lawfully called and ordained, are by Christs one Gospel Institution, specially ordained, injoyned, as well to administer the Sacraments of Baptism and the Lords supper to the People, and Parishioners committed to their charge, as to preach the Gospel to, or Catechise them, and that as an Essential part of their Ministerial Function. Which they at large evince from *Mat.* 28.19,20. *Mar.* 14.22, &c *c.* 16.15, 16. *Luke* 14.to.25.*c.*17.37.22.19. *c.*24.47, *John* 3.22, 23.*c.*4. 1,2. *Acts* 2.41,42,46.*c.*6 4. *c.* 8. 12,13, 36,38.*c.* 10. 48.*c.* 16. 15. 33. *c.* 18. 8. *c.* 19. 4, 5. *c.* 20.7. 11. Luke 12.42.43. 1 *Cor.* 1.14, 15, 16. *c.* 9, 11; to 15. *c.*10.

* In their Canons, Titles, Discourses, Treatises *De Clericis, Pastoribus, Sacerdotio, Parochia, Sacramentis, Ordinatione, Ministris, et ministerio Verbi Dei, Baptismo, Divinis Officiis, &c.*

c. 10. 16, 22. c. 11. 20. to 34. c. 4. 1, 2. Rom. 12. 6, 7, 8. *Ephes.* 4. 11. 12, 13. *Tit.* 1. 7, 8, 9. *Phil.* 4. 17, *Gal.* 3. 1, 27. and * other Texts. Hence all the Protestant Princes, States, Cities, and Divines in *Germany*, in their *Concordia Pia, & confessio Fidei & doctrinæ*, under all their *hands and seals*, printed *Lipsiæ* 1584 p. 188. define the Ministers Office (commonly called *Sacerdotium* by the Papists) to be *Ministerium Verbi*, Et Sacramentorum aliis porrigendorum: Evangelical Bishops and Presbyters to be *such*, p. 39. *Quibus secundum Evangelium, seu ut loquuntur de jure divino, est commissum Ministerium Verbi* et Sacramentorum. And p. 15. *Artic.* 14. *De Ordine Ecclesiastico, docent Quod nemo debeat in Ecclesia publice docere* aut Sacramenta administrare, *nisi rite vocatus*: who when thus duly called to the Ministry, ought as well to administer the Sacraments, as to preach to the people, as they there resolve, p. 316. and elsewhere: with whom all other Protestant Churches accord, as you may read at large in the *Harmonie of Confessions*, Sect. 12, 13, 14, 15, &c. This likewise is the Resolution of our Statutes of 50 *E.* 3 *c.* 5. 1 *Rich* 2. *c.* 15. 31 *H.* 8. *c.* 14. 32. *H.* 8. *c.* 44. 33 *H.* 8. *c.* 32. 1 *Mariæ, c.* 3. made in times of Popery; and of the Statutes of 1 *Ed.* 6. *c.* 1, 2 & 3 *E.* 6. *c.* 1. 5 & 6 *E.* 6. *c.* 1. 1 *Eliz. c.* 2. 8 *Eliz. c.* 1. 13 *Eliz. c.* 12. (made in times of Reformation.) That Preists and Ministers ought *ex officio mero*, to *administer the Sacraments*, as well as preach to their People; and thereupon these Later Statutes expresly stile all and every of them in particular, *A Priest or Minister of Gods holy word* and Sacraments, in the copulative; because they are obliged to minister both of them unto their Flocks upon all occasions, both by the Laws of God, and the Land, as they are Ministers.

2 ly, As they are Parochial Ministers, Vicars, or Incumbents of Parish-churches, they are precisely, personally and indispensably obliged, * *ex Officio*, of meer duty

* *Heb.* 6 1, 2 c. 7. 31 to 28. c. 8. 3. 4 &c. 10. 29. 1 *Pe.* 3. 21. c. 5. 2, 3. *Ga.* 1. 4. 2 8.

* See *Pontific. cale Rom.* De Ordinatione Presbyteri, p. 41, 42, 50, 55, & p. 458. *De degradatio ab Ordine Presbyteratus.* *Fox* Acts and Monuments, Vol. 2. p. 87, 109. 388. 392.

ty and right to adminiſter the Sacraments of the Lords Supper and Baptiſm to all their Pariſhioners (who are legally qualified and deſire the ſame) publickely in the Church at convenient ſeaſons. This I ſhall clear, firſt from the very definition of a Pariſh, and Pariſh-Church, to which they are preſented, and then by direct Statutes and Authorities. Cardinal *Hoſtienſis* in his *Summa*, l. 3. *Tit. de Parrochiis*, *Panormitan* in *Rubrica* de *Parrochiis*, *Petrus Rebuffus* de Collationibus, p. 655 *Willielmus Lyndewoode* Provinc. Conſtit. l. 3. *Tit. de Parrochiis*, *Duarenus* de Beneficiis, & Diſputat. Anniverſaria, l. 1. c. 26. *Franciſcus Zerula* Praxis Epiſcopalis, pars 1. Tit. *Parochia*. *Goffridus Abbas*, *Tit.* Parrochia, with ſundry others, define a Pariſh to be *Locus in quo degit populus certis finibus limitatus, et alicui Eccleſiæ Deputatus.* And a Pariſh Church to be, *Eccleſia quæ habet Parochiam ad ejus curam deputatam, ad quam convenit populus* * **Ad Recipiendo Sacramenta**, *et ad audienda ſacra, et verbum Dei, et rudimenta fidei, diebus ſacris.* Which Dr. *Iohn Cowel* in his *Interpreter*, and *Iohn Minſhaw*, in his *Guide unto Tongues*, in the word *Pariſh*, thus ſecond & Engliſh; *A Pariſh in our Common Law, is the particular charge of a Seeular Prieſt*: and then ſubjoyn, *A Parochial Church is that which is inſtituted for the ſaying of Divine Service*, **and Miniſtring of the holy Sacraments to the people** *dwelling within ſuch a compaſs of ground near unto it.* With them accords the Book of *Mich.* 34 *E*: 1. Fitz. *Quare Impedit* 187. where they prove a Church to be no *Chapel*, but a *Pariſh Church*, becauſe it had *Sepulture*, *Baptiſm*, *and Sacraments adminiſtred in it.* And the Statute of 32 H. 8. c. 32. *For the Church of* Whitegate *to be made a Pariſh of it ſelf, and no part of the pariſh of* Over; proves it to be a Pariſh Church antiently, from this very reaſon, *Becauſe the Inhabitants and Tenants within ſuch places and precincts, time out of mind, came and reſorted to the ſaid Pariſh-Church of* Whitegate, *within*

* See *Pontificale Romanum* p. 247, 259. *De Eccleſiæ Dedicatione.*

within which times they have continually received Sacraments and Sacramentals *at and in the said Church, and have continually used to marry, bury, and Christen within the same.* And the Statute of 32 H. 8. c. 44. *reduced the Town of* Royston, *belonging to 5 remote Parish-Churches, to one Parish Church new built in it, because it was over-painfull (especially to the impotent, sickly, and aged Inhabitants (to travel to those Churches so remote, or any of them, to hear their divine Service, and they could not have* **the Sacraments and Sacramentals to be ministred to them**, *according to the laudable custom of holy Church, to their great perils and jeopardies, through the remoteness of these Churches, and absence of their Parsons and Curates in such cases of necessity, when their presence o the comfort and consolation of their Parishioners, is most requisite and chovefull.* So that Parish Churches (so stiled, because originally built by the Patrons and *Parishioners* for their ease, use, benefit, and the use of, and **seats* in them are still in the Patron & Parish, who repair them) were originally built and **consecrated*, as well for the Administration of Sacraments in them, by their Parish *Priests, Parsons, and Vicars*, as for Divine Service, Prayers and Preaching; Of which the people cannot be deprived, without their great *disconsolation, perils and jeopardies*, as this Paliament and Statute resolve: to which the Statute of 1 *Jacobi*, ch. 30. For *erecting a New Church* in Melcombe Regis, *to be the Parish Church of* Radipol, &c. might be added, to the like effect.

* *Pasc.* 2 *Car. B. R. Carlton* and *Huttons* case resolved.

* *Pontificale Romanum, De Dedicatione Ecclesiæ* p 247 259. &c.

This will be most apparent and irrefragable, by considering the Office and Duty of every *Parish-Priest Parson and Vicar*, and why he is stiled *Parochial*: he his stiled a Parish-Priest or Minister, as *Duarenus* and others forecited resolve, because he is specially *obliged to preach, administer the Sacraments, and perform all other duties belonging to a Minister*, to all and every Inhabitant of that Parish to whose Church he is presented, instituted inducted

inducted; and not to any others, but only voluntarily when he pleaseth, being *married and espoused to that peculiar parish*; whence he is stiled* *Parochus*, and the people *Parochia*, by the Canonists and Lawyers; (a) *Angelus de Clavasio*, and (b) *Franciscus Zerula*, thus describe the Office of a Parish-Priest, or Vicar. *Parochi officium est, Primo praedicare: Pueros rudimenta fidei et obedientiam docere: Vim, et usum Sacramentorum exarare populo: Oves suas agnoscere, et bono exemplo pascere;* Sacramenta administrare, &c. (c) *Rebuffus* thus seconds them. *Ecclesia Parochialis dicitur* Beneficium *saculare et cum administratione*, Quia Curatus tenetur ministrare Sacramenta Ecclesiastica, *&c. aliaque opera Parochianos tangentia, facere tenetur.* And he is called an (d) *Incumbent*, both by the Common, and Canon Law, from the word *Incumbo*, because *he ought diligently and wholly to apply himself to discharge these his Pastoral duties himself*, 1 Tim. 4. 15, 16. Acts 6. 4. This duty of administring the Sacraments, as well as preaching, is so inseparably annexed to every Parochial Minister, Vicar and Incumbent, that (e) *Jacobus de Graffiis*, (f) *Jo. Andreas*, and other Casuists, question, whether *Parochus potest assumere alium Sacerdotem in adjutorem pro administranda Eucharistia, vel in officio praedicandi, vel aliis?* Resolving affirmatively, that he may, only for a season, when himself by reason of sickness, or multitude of the Communicants, or other necessary occasions, is unable to discharge those duties in person, *quia tunc necessitas legem non habet. Non tamen possit per viam delegationis generalis committere alicui omnem suam curam, quia videretur se exonerare*, Cum tamen debeat per se exercere. With these Canonists, the book *of the consecration of our English Ministers*; *the Homilies* touching the *Use and Administration of the Sacraments*; The Book of Common Prayer and *Administration of the Sacraments*, with the Rubricks therein; the Articles of the Church of *England*, *Artic.* 23, 26. confirmed

*See Calvinii Lexicon Juridicum. Tit. Parochia & Parochus.

(a) *Summa Angelica*, Tit. Parochia.

(b) Praxis Episcopalis, pars 1. Tit. Parochia, sect. 3. f. 162.

(c) Praxis Beneficiorum, pars 1p. 4. sect. 10.

(d) Littleton, sect. 180. 14 H. 7. 25, 26 Cooks 1 instit. f. 1190.

(e) *Appendicis Aurei*, l. 1. c. 11. sect. 18, 20. p. 53.

(f) Ind. cap. Omnis in Glos. executionem.

confirmed by several Protestant Parliaments, the English * *Injunctions of H.8 & Qu. Eliz. Reformatio Legum Ecclesiasticarum*, in King *Edward* the 6. his reign, and the Canons of King *James*, and the Convocation under him, *Can.* 20, 21, 22, 23. fully accord, injoyning all Parsons, Vicars, Incumbents whatsoever, *to administer Baptism and the Eucharist to their Parishioners, at least* *thrice every year in person* (which they used to administer every Lords day to the people in the primitive Church, as I have elsewhere prov'd at large) as well as to preach, Catechise, and read Divine service to them. Memorable is that passage in that Pathetical exhortation prescribed by the Church of *England*, in the *Book of Common Prayer*, to be used *by all Ministers when they shall see the people negligent to come to the holy Communion*, viz. *when God calleth you, be you not ashamed to say, I will not come?* &c. *I* for my part am here present, and according to mine office, *I bid you in the name of God, I call you in Christs behalf, I exhort you as you love your own Salvation, that ye will be partakers of this holy communion*, &c. *And whereas you offend God so sore in refusing this holy banquet*, I admonish, exhort, and beseech you, *that unto this unkindnesse you will not adde any more, which thing ye shall do, if ye stand by as Gazers and Lookers on them that do communicate, and be not partakers of the same your self*, &c. How many Ministers now a days preach direct *dehortations* from the Sacrament, pointblank against this *Exhortation* and their Rubrics, prescribed by God and Christ himself, 1 *Cor.* 11. 24, 25. This do, as oft (*as ye do*) eat and drink it) in remembrance of me, and no lesse than 5 Acts of Parliament, which thus back the premisses.

The Statute of 1 *E.* 6 *c.* 1. in the very beginning of Reformation, and yet in force, enacts, *That the blessed Sacrament be hereafter commonly delivered and ministred unto the people within the Church of* England *and* Ireland, *& other the Kings Dominions, under both the kinds of bread and wine; That the people present shall receive*

* *Fox Acts and Monuments*, vol. 2. p. 388. 392, 393. 401

* See *Spelmani Concil.* p. 529. 548 615. 616. and my *Suspension suspended* p. 24, 25, 26. Giving & receiving being all those Texts, Laws, that prove it the peoples duty to receive the Sacraments *de eo Nomine* oblige the Minister to admit and deliver to them. *Positio relatorum positus alterum.* Mr. *John Humfrey.* A Second Vindication of Free-admission to the Lords Supper. p. 125, &c.

the same with the Priest which shall administer the same, who shall, at least one day before, exhort, all persons which shall be present, *likewise to resort, and prepare themselves to receive the same: and when the day prefixed commeth, after a godly exhortation by the Minister made, the said Minister* shall not without a lawfull cause deny the same to any person that will devoutly and humbly desire it; *any Law, Statute, Ordinance, or custom to the contrary hereunto in any wise notwithstanding.* The Statutes of 2 and 3 *Ed.* 6. c. 1. 5. and 6 *E.* 6. c. 1. and 1 *Eliz.* c. 2. enact and ordain, *That* all and singular Ministers in any Cathedral or Parish-Church shall be bound to say and use the celebration of the Lords Supper, and administration of the Sacrament of Baptism, and of the Lords Supper, *in such Order and form as is mentioned in the Book of Common Prayer*; And if any manner of Parson, Vicar, or other whatsoever Minister that ought to minister the Sacraments shall refuse to minister the Sacraments, in such Cathedral or Parish-Church, *or other places*, as he should use to minister the same, *in such Order and form as they be mentioned and set forth in the said Book: or shall wilfully and obstinately standing in the same, use any other Rite, Ceremony, order, form, or* manner of administration of the Sacraments, *than is mentioned and set forth in the same Book: That upon his lawfull conviction thereof, by verdict of* 12 *men, or by his own confession, or by notorious evidence of the fact, he shall lose and forfeit to the King, his Heirs and Successors, for his first offence, one whole years profit of his benefice, or Spiritual promotion, and also suffer imprisonment for* 6 *months without Bayl or Mainprise; and for his second Offence, be ipso facto deprived of all his spiritual promotions, and likewise suffer one whole years imprisonment, and for his third offence, suffer imprisonment during life.* The Statute of 13 *Eliz.* c. 12. enacts, *That none shall be made Minister, or admitted to preach or* minister the Sacraments, *being under the age of* 24 *years. That every*

Nota.

person

person admitted to any benefice with Cure, shall publickly read the Articles of Religion in the same Church whereof he shall have the cure, in the time of the Common Prayer there, with Declaration of his unfeigned assent thereto, and be admitted to minister the Sacraments *within one year after his induction; or else upon every such default,* he shall be ipso facto immediately deprived, *and thereupon the Patron present a New Incumbent.* By all which *Acts it is clearly resolved, that every *Parson, Vicar, Minister of a Parochial Church is admitted thereunto, as well to administer the Sacraments as to preach, and peremptorily obliged, frequently, constantly to do it in person, as a principal duty of his Function and Pastoral cure, under pain of forfeiting of the profits of his Benefice, Imprisonment, and Deprivation, for his contempt and neglect thereof,* by these expresse Statutes of our Protestant Parliaments, as well as by our Canons, Convocations, Divines and the whole Church of *England.*

*See 13 Eliz. c. 12. 3 Jac. c. 4, 5. 1 Jac. c. 2.

If any Object, that these *Statutes* are now abrogated, repealed by the *Ordinance* of both Houses, prescribing the use of the *Directory*, in place of the *Book of Common Prayer* and administration of the *Sacraments*; Therfore Ministers are not now obliged by them to administer the Sacraments to their Parishioners, *Object.* 1.

To this I answer, 1. That no Ordinance of Parliament whatsoever (especially to repeal and alter former Acts of Parliament) can be made without *the threefold consent of King, Lords, and Commons* in Parliament, an *Act and Ordinance of Parliament being alone, and requiring the self same treble consent in Law*, as I have irrefragably proved at large in my *Irenarches Redivivus* printed *Anno* 1648. against Sir *Edward Cooks* and other mistakes in this point; which threefold assent the objected *Ordinances* wanting, are meer *Nullities* in Law, and can no waies repeal these forecited Statutes, remaining still in their Legal power. aly. Admit these Statutes repealed, or suspended by these Ordinances, (which I deny in point of Law) yet these very objected *Answer.*

Ordinances, and the *Directory* it self, positively enjoyn all Ministers and Vicars, duly to administer the Sacraments of the Lords Supper and Baptism to all their Parishioners (duly prepared and qualified according to these Ordinances) as well as these Statutes and the Books of Common Prayer. Therefore if these Ordinances or the *Directory* be still in force, they are bound by them to administer the Sacraments to their Parishioners; but if they be grown out of date, and absolete, (as the Objectors and those of the Congregational way believe, who will not submit unto them) then the Statutes pretended to be repealed by them, are again revived by their expiration, and so oblige them as firmly now as heretofore. 3. The Administration of the Sacrament being an * *essential inseparable part of every Ministers duty*, who hath a Parochial cure, or charge of Souls, both by the Law of God, and constitutions of our own and all other Christian Churches, as I have proved, admit these Statutes all repealed, yet they are still obliged by their very Office, and Pastoral Function, to administer the Sacraments to their Parishioners, and therefore liable to Divine and humane punishments for contempt or neglect thereof.

*See Fox Acts and Monuments, vol. 2 p. 87 388, 392, 393. the Books of ordination of Ministers.

Object. 2. If any object in the second place, That they are now admitted to Parochial cures, only to preach the Gospel in their Parish Churches, but not to administer the Sacraments to their Parishioners, as formerly.

Answer. I answer, 1. That if there be any such new forms of admissions and institutions used, they are meerly void in Law by the expresse resolution of the Statute of 13. *Eliz. c.* 12. and the other forecited Acts: And Ministers thus admitted are but only bare *Lecturers*, not *Parsons, Vicars or Incumbents* by our Laws, & so the Church still void notwithstanding such admissions, which are only to one part of their ministerial Function, not to all their spiritual cure.

2ly. Such admissions to cures are strange monstrous Impostures, Hypocritical Delusions, yea grosse Absurdities,

dities, execrable to God and all honeſt Chriſtian men; enabling Miniſters to receive the whole Tithes, Dues of their Pariſhioners, yet exempting them from the moity at leaſt of their Paſtoral Duties, to which the Laws of God and the Land oblige them. We lately decryed it as an impious Soleciſm & excuſe in our old lazy non-preaching *Parſons* and *Vicars*; that they alleged, they *were inſtituted only to read common Prayers, Homilies, and adminiſter the Sacraments*; but not to preach to their Pariſhioners. In the Biſhop of* *Dunkelden*, and other Lordly Prelats, that they *Were ordained Biſhops only to govern the Church, confirm and ordain Miniſters, but not to preach or adminiſter the Sacraments*: And ſhall we now after all our late pretences of Reforming their abuſes, and declamations againſt their Idleneſſe, admit our New Parochial Incumbents to plead they are *only half-Miniſters*; bound ſolely to preach, but not to Baptiſe, adminiſter the Lords Supper, Catechiſe, viſit the ſick, Marry, Bury, as all their Predeceſſors did? If any Gentlemans hired Shepherd ſhould neglect to fold his Sheep, or look them out when ſtray'd, and then plead he was only bound by his office to feed, keep them in their paſture; Or if his hired Cook ſhould tell him, that as his Cook, he is bound only to boyl, but not to roſt his meat, or bake his Veniſon; or ſhould his Laundreſs affirm, ſhe was hired only to make his Bed, and ſweep his Chamber, but not to waſh his Linnen, or ſtarch his bands or cuffs; Or his Groom maintain, he was by his place obliged only to dreſs his horſes, & give them hay, but not to water or carry them their provender; would not all deride theſe their abſurd, irrational allegations, and their Maſter cudgell them to the performance of all the parts of their reſpective duties, or elſe turn them preſently out of Service? And will God or men then indure, that their Miniſters of the Goſpel (eſpecially when pretending extraordinary eminency, Diligence and Saintſhip above other of their Brethren) ſhould thus juggle with them to their faces, as openly to

* *Fox* Acts and Monuments Vol. 2. p. 614. See *Reeves* and *Shelford's* Treatiſes to the ſame purpoſe.

affirm, they took the sole cure of their souls only to reap all their Dues, Tithes, and to feed them with Gods word in the Pulpit, (of which the * *unconverted, unbaptized heathens*, are capable as well as Christians:) but not with Christs Sacramental body or bloud at the *Lords Table*; whereto professed Christians only have a right, 1 *Cor.* 10. 16. to 20. c. 11. 22. to the end? To instruct their aged, but not baptize their Infant, or catechize their younger Parishioners? Yes, that they took upon them their *Pastoral Cure* only to shear their *fleeces*, but not to own them as *any part of their Churches flock*, or discharge the duty of a *Pastor* towards them, unlesse they will unmodel themselves from a *Parochial Church*, into a private *Congregational conventicle*? Those who have *hearts* of * *Adamant*, or *faces of Brasse*, Publikely to make such an *untheological, irrational, illegal*, unministerial Plea as this, so diametrically contrary to the very essence of their Pastoral Function, duty, and to their painfull Predecessors practices in all ages, Churches; to our blessed * *Saviours own practice, precepts*; and his *description of a true and good Shepard*: John 10 (yea to the definition of a true * visible Church, *wherein the word of God is truly preached*, and the Sacraments duly administred,) may justly fear they are no true *Shepards*, but rather *theeves, robbers, hirelings*; because they withhold from their flocks the Sacrament of their Spiritual Regeneration; yea the Body, Bloud, Cup of our Lord Jesus Christ, *the* (g) *chief Shepard of the Sheep*, who bequeathed it to them as their chiefest Legacy, at his death, though themselves stile and confesse them to be, *the very* **seals of the Covenant of Grace*, which they hold forth unto them only as *a Blank without a Seal*, refusing to set *these Seals unto it*, when importuned by their people, upon any terms, but conformity to their own new Church-wayes, thereby making the very **Sacrament of Christian love and union*, a meer Seminary of Schism, contention, division, separation. And *because they entred not by the door into the Sheepfold*, that is by any legal form of

* *Mat.* 28. 19, 20. *Acts* 2. 38. c. 18. c. 15 3. c. 21. 22. 2 Tim. 4. 17.

* Ezek. 3. 9. Zech. 7. 12.

* *Mat.* 26. 26. to 31. *Mark.* 14. 22. to 27. *Luk.* 22. 14, 19, 20. 1. *Cor.* 11. 23. 24. 24.

* See Dr. *John White*, and Dr. *Feild* of the Church.

(g) 1 Pet. 2. 3. Hebr. 13. 20.

* *See my Suspension Suspended.*

* 1 Cor. 11. 26. to 33.

1 Cor 10. 16, 17.

of admission to their whole pastoral cure, *but climbed up some other* new *way*, only *to preach unto their people*, rather *as to a company of unconverted Heathens*, than a *Christian Church*, till new minted into a *segregated Congregation*, (collected out of sundry Parishes though never so remote) but not to give the Sacraments to them upon any terms; (*b*) *which they ought to do, yet not to leave their preaching undone*, which though it be the first and chiefest part of their Ministry, yet it is not the *quarter part* of their *Pastoral function*, as Scriptures and our Laws resolve.

(*b*) Mat. 23. 23 Lu. 11. 42

If *A.* object, that he hires another to baptize and give the Lords Supper sometimes to his Parishioners, though he do it not himself, his judgement and conscience being to the contrary. *Object.* 3.

I Answer, 1. This is a clear confession, that it is a part of his own duty, else why should he hire another to discharge it in his stead? 2. This proves the former Objection (that he was admitted only to preach) a meer fiction. 3. If he refuse to do it himself, out of conscience, as a thing utterly unlawfull in his Iudgement for him to administer unto his Parishioners, whilest in a Parochial way; with what conscience can he hire another to do that in his behalf and right, which himself holds sinfull, unlawfull for himself to do? Doubtlesse a sincere purely tender conscience will never hire or authorize any other to discharge that office for him, which himself holds utterly unlawfull, unevangelicall, nor dare accept or retain a Parochial Cure upon any terms to gain the fleece so long as he disclaims the constitution as *Antichristian*, and the *flock* as none of his *Pasture sheep*. 4ly. Such a poor tender conscience would rather resign its Parochial charge, to avoid all appearance of evill, of scandal, and still the checks arising in it, that grieve the Spirits, wound the consciences, or disquiet the Peace of the generality of his Parishioners, by the personal neglect of his duty, in not communicating with them at the *Font* and *Lords Table* as his real *flock*, *or as one spiritual bread and body with them*, as he ought *Answer.*

ought to do. 1. *Cor.* 10. 16, 17. and that only upon this ground, because they will not conform *to the new Independent Guarb against our Lawes*, for which they can produce no text, no colour of Authority from Scripture, Antiquity, or reason, to warrant the seclusion of any from the Sacraments that are under their *Parochial* cure. 5ly. The discharge of this part of his duty by such a person, or in such a manner as gives no satisfaction to our Lawes, nor his parishioners, is no Satisfactory plea before Gods or mans tribunal, since he can no more conscientiously or duly administer the Sacraments, than the Parishioners receive them, only by a substitute. Yea, if it were no good excuse for our *Pluralists*, or *Non-residents Prelatical Clergy-men* heretofore, that *they preached and discharged their Ministerial function by their Curates*, *their office being* (*i*) *personal and untransferrable to another*, then by the selfsame reason, it can be no plea in Law or Conscience for this Vicar, that he administers the Sacraments to them only by another Vicar; especially when he doth it to his separate Congregation by himself alone, and never by a Proxy. 6ly. It it a strange plea to plead conscience against doing that expresse duty, which his very *place and calling* oblige him both in * *conscience and justice to perform*. Such is the free admission of his Parishioners to the Lords Supper. Which Christ himself, his Apostles, Christian Ministers in all ages till this present, made conscience duly and diligently to administer to the People, exhorting them frequently to receive the same. I suppose Mr. *John Humfrey* his Treatises of free-admission unto the Lords Supper, his *Rejoinder to Dr. Drake*, *and John Timson his Bar removed*, will rectifie his conscience, and remove this bar, if perused by him.

(*i*) 1 Cor. 9. 16, 17. 2 Tim. 4. 1, 2, 5. 1 Tim. 4 13. 16. Col. 4, 17. Heb. 7. 24.

*See my Suspension 1 suspended, and answer to 4 serious Questions.

Quare. 2. To your 2 *Quare* I answer, 1. It is a principle in divine, Civil, Canon, and Common Law, & in the Gospel too, *Beneficium propter officium*; that every Minister or person who enters into, & reaps the benefit of any Office or Function, ought conscientiously to perform all the duties of his Ministry and Function, and addict himself fully and personally to discharge them,

as

as *Luk.* 12,42,43. *Rom.*12.7. 1 *Cor.*4.1,2. 2 *Cor.*4. 1,2. & 6.3,11,12. 1 *Cor.* 9.7, to 13. *Eph.*4.12,13. *Col.*4.17. 1 *Tim.*4.15. *c.*3.1,2,3. 2 *Tim.*4.1,2,5. *Tit.* 1.7. 2 *Pet.*1.12,13. compared with *Luk.*10.7. 1 *Tim.* 5.17,18. *Rom.*15.27. *Gal.*6.6. 2 *Thes.*3.10. resolve.

2ly. That it is a *Maxime* in Law, (*k*) *That the grant of every Office to any person for life or in fee, hath this tacit condition annexed to it by the very Law it self, without any special words or condition of the Grantor, That the Grantee shall well and truly perform his Office, execute that which to such Office belongeth to be done, and attend upon it; or otherwise, that he shall forfeit the same: and that it shall be lawful for the Grantor or his Heirs, to out him of his Office, and grant it to another who will more faithfully discharge it. Littleton* puts the case of *a Parker, Steward, Constable, Bedelary, Baylywick*; and he adds *other Offices*, &c. which extend to *Ecclesiastical*, as well as *temporal Offices*. I shall illustrate it by some few unprinted Records. *Claus.*6. *E.*1. *m.*1. *Earl Waren Camerarius Scaccarii* (which Office he had leave to execute by Deputy) *forfeited his Office by the default and negligence of his Deputy.* Claus.17. E. 2. Dors. 31. *The Marshal's Office of* England *was seised as forfeited by the Judges of the King's Bench, because he had not one to attend there for him: after which, he was fined at* 200 *l. and upon promise of better attendance, restored.* Clause 33. E.3. m.33. The King sends a *Writ* to the High-Sheriff of *Cambridge*, *De subvicecomite amovendo, & aliena substituendo*, because *he misdemeaned himself in his Office, was a person of ill fame, a cozener, one that had two names.* Claus.4. E.1. m.5. Claus.15. E.1. m.4,8,9. Claus.16. E.1. m.2. Claus.17. E.1. m.2,3. Claus.25.E.1. Dors. 13. Claus.31.E.1. m.1. *I finde* (l) *several Writs to remove Coroners from their Offices, and to elect new in their places, because they could not, or did not attend upon their Offices, or were sick, deaf, or unable to discharge them, though elected onely by the County in their County-Court.*

(k) *Littleton* Sect.378,379. L.qu.E.4 f.26, 27. 2 H.7.11, 39.H.6.32,33. Br. Office 19. Forfeiture 27. Plouden. f. 379,380.21E. 4.10. Cook 8. Rep. f. 44. 9. Rep. f. 50,95, 96,97 & 11 Inst. f.233,234.

(l) *See* Fit. *Nat. Brevium* f. 162, 163. & the Register. *de Coronatore exonerando*

And if temporal Offices have such a Condition in Law annexed to them, and are forfeited by the non-performance of them, and all the duties belonging to them; much more then spiritual, which concern Mens Souls. 3. Every person who sustains any considerable prejudice or damage by the *wilful negligence, non-performance or mis-performance of any* (m) *Sheriffs, Bayliffs, Escheators, Guardian, Attorny, Viteler, Hostler, Smith, Physitian, Chirurgion, Carpenter, Mason, or other Officer, or person intrusted by, or set over him; may have a legal Action or remedy against them at the common Law, by an Action of the case, or otherwise, wherein he shall recover damages:* Which Law holds in Spiritual and Ecclesiastical Offices. *Littleton* is expreis, Sect. 136, 137. *That if a man give Lands in Frankalmoigne to an Abbot, Prior, or any other Man of Religion, or holy Church*; or to a Parson of a Church and his Successors, to have onely *divine and spiritual Services done for him; if they afterwards will not do, or fail to do such divine Services; if the Services be not put in certainty, the* Lord *may complain thereof to their Lord or Visitor, praying him that he will lay some punishment or correction for this, and also provide that such negligence be no more done; and the Ordinary or Visitor of right are to do this: But if the divine Service be incertain to be done, as to sing a Mass, Placebo, or Dirge, &c. on some set-day of the week or year; the Lord, if such divine Service be not done, may enter and distrain them to do it; or else detain the Lands, as forfeited, and* (n) *escheated to him by the non-performance of the divine Service.*

(m) See *Ashes* Tables, Tit. *Action sur le case*, Sect. 1, 2, 4, 7, 9, 10, 12, 13, 15. *Brook and Fitz. Action sur le case.*

(n) See *Cooks* 1 Instit. f. 96, 97.

These Generals premised, I conceive the grieved Parishioners may relieve themselves, and either reclaim or remove their Vicar, if obstinate, by these Legal Proceedings, at the Common Law, (which must be as just and equal to right the Parishioners against their Vicar for detaining their spiritual Food and Duties from them, as to help the Vicar to recover his Tythes and Duties

Duties from them, when injuriously detained; else it should be either very partial or defective) there being now no Ecclesiastical Court, Jurisdiction or Commission extant, wherein or whereby to right them.

1. They may once more in a Christian friendly manner (for I would have no violent courses used, if Christian Intercessions may prevail) repair to their Vicar before the first Lord's Day of the next Month (and so in succeeding Months) and importune him to deliver the Sacrament to such of them publickly in the Parish-Church, as he cannot charge with any scandal or ignorance, and to baptize their Children according to his duty, else to resign his place to such a godly Minister as will constantly do it: and if he peremptorily and frowardly deny to do either, or to allow such other able Minister as the Parishioners shall make choice of to perform these duties to them, they may then (o) *publickly indict* him for it upon the Statutes of 1 *E.6. c.*1. and 1 *Eliz. c.*2. and upon the second conviction, he is *Ipso Facto deprived of all his Spiritual Promotions, and his Vicaredge*, and the Patron may present another.

(o) Mr. *Burroughs* did so at *Colchester* by my advice, only for denying him the Sacrament, because he would not receive it at the *New Rail*: see *My quencher* at the end.

2. They may all, after such refusal, joyntly detain their Tythes and Duties demanded by him as their *Vicar*, because by his own confession he was never legally instituted to discharge all the Duties of an Incumbent, according to 13 *Eliz. c.*12. and disclaims to own them as his *proper Flock* and *Cure*, owning onely his *Segregated Congregation* for such, in *opposition and contradistinction to his Parish*; which they may plead in Bar of any *Legal Action* to recover his Dues: this (p) *disclaiming of them, being a kinde of resignation of his Vicaredge, and bar unto his Dues; quia Beneficium propter Officium*: and if he be not their true, real *Parochial Vicar*, and do not his duty to them, he hath no right to their *Parochial dues*, nor yet unto the *Glebe*. If he will *muzzle* their *mouths*, * not *tread out the corn* to them at the *Lord's Table*; they *may also muzzle* his *mouth, that he*

(p) See *Cooks* 1 Instit. f. 101, 102, 362, 363. and *Brooks* and *Fitz.* Tit. Disclaimer.

* 1 *Cor.* 9. 9, 10, 11. 2 *Thes.* 3. 10.

shall not eat of their Corn, at his own or their *Tables*, by *way of retaliation.*

Our *Law-Books* resolve, That if *an Annuity* be *granted* to *a Lawyer, Attorny or Physitian, pro Consilio suo impenso & impendendo*; if they stop or refuse to give the *Grantors* their Counsel when required; or if *A.* grants an Annuity to *B.* for the use of a way, and *B.* stops the way, that hereupon the *Grantors may justly stop and detain the Annuities, being forfeited by their stoppage, and refusal of their Counsel, Advice or way granted*; and may plead the same in *Bar of any Action at Law for these Annuities*: much more then may the Parishioners do it, when their *Vicar* or Incumbent not only peremptorily refuseth to give them the *Sacraments*, but disclaims to be their *Vicar or Pastor* in *a Parochial and Legal way*. If they will reap all their temporal things and duties, it is just they should sow and administer *to them all their spiritual things and Nutriments*; if the Parishioners must not *muzzle* their mouths, much less must they *muzzle* their *Parishioners*, by keeping them *back* from the *Lord's Table*, 1 Cor. 9. 10, 11. Rom. 15. 17.

* 21 E. 3. 7. 41 E. 3. 6, 19. 38 H. 6. 20. 39 H. 6. 22. 5 E. 4, 5. 15 E. 4. 3. 20 E. 4. 18, 19. *Brook Annuity*, 7, 8, 25, 28, 29. *Condition* 45 *Dyer.* 6 H. 8. 2. 6 E. 6. t. 76. Sir *John Davis* Reports, f. 1. b.

3. Every *particular Parishioner* grieved, may by the Statutes of 13 *E.* 1. *c.* 24, 25, 50. *have a special Action upon the Case against him at the common Law*, (as I conceive) since he can now have no remedy in *any spiritual Courts, as formerly*, being all suppressed: by the self-same Reason, as *Executors* and *Legatees*, now sue at the *common Law, and in Chancery*, for such *things*, such *Legacies, and Ministers* for such *Tythes and Duties*, as formerly they had no suit nor remedy for, but in *Ecclesiastical Courts alone*; else there should be *a great failer* of Justice: and because no *Ecclesiastical* (q) *Jurisdiction* is now either wronged by, nor can be claimed, pleaded against such *Actions*, there being none to take present *conusans* of them: Or at least, they way have a * *special Action against him*, upon the Statutes of 1 *Ed.* 6. *c.* 1. & 1 *Eliz. c.* 2. as well as upon the Statutes of *Magna*

(q) See *Brooke* and *Fitz.* Tit. Conusance & Jurisdiction.

* See *Fitz. Brook & Ash.* Actions *sur le* Statute.

Magna Charta, *c.* 20. of *Merton*, *c.* 10. and other Acts.

4. I conceive the *Patron* himself (from the forecited *Reasons* of *Littleton's Cases of Frankalmoigne*, Sect. 136, 137. and of *Conditions in Law*, Sect. 378, 379.) upon the *Vicars refusal* to own the *Parishioners*, *and administer the Sacraments to them*, *as his Flock*; (for which end, the Glebe and Duties thereunto belonging, were first given by the *Patron* and his *Tenants* to the *Vicar* and his Successors, as well as to preach) may justly enter upon him for breach of this Condition in Law, out him of the *Glebe* and *Vicaredge*, and bestow them on some other by his immediate deed of *Collation*, *and Livery of Seisin*, without any Presentation, *as* * *free Chappels used to be*, *and are still collated*; and that upon this Legal Ground; (r) *because Patrons originally had the sole right of collating*, *inducting*, *instituting Clerks and Incumbents to their Churches*, *without the Bishops special license*, (*as they conferred other Freeholds to their Tenants*, *by their own immediate grants and liveries*) *till Bishops and Ordinaries*, *by sundry Canons extorted by degrees this Jurisdiction from them*, *ingrossing the power of approving*, *admitting*, *instituting*, *and inducting Clerks into Parochial Churches by degrees into their own hands.* Which Bishops with their Canons, Ordinances, being now suspended or abrogated in *England*, and their ancient Jurisdiction, by no express *Act of any real Parliament* legally transferred to any other *Ecclesiastical or Civil Jurisdiction*; thereupon the *Patron's original right of collating Benefices by immediate grant and livery*, *and outing the Incumbent thereof*, (*as Patron* (s) *and Visitor of the Church*) for not *administring the Sacrament and discharging his pastoral Office*, *is* * *revived*, *resetled in him by Law*: So as he may now justly enter, put out, or deprive the *Vicar*, as the *Bishop*

* Sir *John Davis* Reports, f. 46. b. 2 *Jacob* Fairchelas case *Cooks* 1 Instit. f. 344. 2. *West's Presidents.* *Grants.* 337, 354.

(r) See M. *Selden's* History of Tythes, ch. 6. sect. 2. ch. 9. sect. 4. My *Jus Patronatus*, p. 15, 16.

(s) 8 E. 3. 69, 70. 8 *Ass.* 29, 31 *Cooks* 1 Instit. f. 344. 2. *Fit. Natur. brev.* 35. *A* 42. 2. b. 6 H. 7. 14. 2. *Dyer* 273. b. Co. 11. Rep. 99. b. Fit. Breif. 660. 27. E. 3 85. 2. 30. E. 3. 10. 2.

* Sir *John Davis Reports*, f. 39. b.

and

and *Ecclesiastical Courts* might formerly have done, there being no other *Legal Ecclesiastical Powers* here extant to depose him: which the Marginal Law-Books, with other Authorities will cleer, compared with 21 *E.* 3. 46. 13 *E.* 4. 8, 9. Br. *Extinguishment* and Reviver. 16. 46. *Cooks* 1 *Instit.* f. 319, 338. 24 E. 3. 72. Bro. Escheat 9, 19, and 13 E. 1. *c.* 25, 50.

5. I conceive a special Writ may be framed and directed to the *Vicar*, commanding him to *administer the Sacraments to his Parishioners*, according to his *Pastoral duty, and the Laws and Customes of* England; and if then he refuse to do it, thereupon he may be fined, attached, ejected for this contempt, and that upon this Ground. Our Kings heretofore, being * *Supreme Governours in and over all Ecclesiastical and Temporal Causes, and persons*, had by the very Common Law of *England* a Soveraign Power, without any Act of *Parliament*, by their *remedial Writs* upon all occasions, to enjoyn all Officers, Prelates, Priests, Ministers, persons under them, to discharge those Offices, Duties, which the Laws themselves and their Offices engaged them to perform. This is evident, not only from the examples of *Solomon, Jehosaphat, Hezekiah, Josiah, Ezra*, and other godly Kings and *Governours* in Scripture, *who appointed the Courses of the Priests and Levites to be in the Temple, commanded them to wait upon, and execute their Offices in every particular, according to their charges; to offer Sacrifices, praise, and minister before the Lord, as the duty of every day required, to kill and prepare the Passeover for the people:* but likewise, *by special Proclamations & Edicts*, commanded *both Levites, Priests, people, to keep, celebrate and eat the Passeover* (a *Type* of the Lords Supper which succeeds it) *when they had neglected it sundry yeers*, 1 *Chron.* 24. 2 *Chron.* 8. 14, 15. *c.* 13. 10, 12, 18. *c.* 29. 16, *to* 35. & 30. 3, 16, 24. *c.* 35. 2, *to* 18. *Ezek.* 6. 18, *to* 22. But also, 1. From the Elegant (t) Oration of King *Edgar* to his Prelates and Clergy, *Et mea quidem interest Laicos, cum æquitatis Jure*

* 26 H. 8. c. 1. 37 H. 8. c. 17. 1 El. c. 1. 5 El. c. 1. 8 El. c. 1. Sir *Joh. Davis* Reports, f. 19.

(t) *Ethelredus Abbas, de Genealogia Regum Angliæ, Col.* 359. *Isaac Causabon, in Epistola Exercitationibus præfixa.* Fox Acts and Monuments, *Vol.* 1. *p.* 218. *Jo. Seldeni ad Eadmerum Notæ, p.* 161, 162. *Mat. Parker, Antiq. Eccles. Brit. in Dunstano.* Spelmanni *concil. p.* 477.

Jure tractare, inter virum & proximum ſuum juſtum judicium facere, &c. *Sed & mea ſollicitudinis eſt Eccleſiarum Miniſtris, Gregibus Monachorum, Choris virginum & neceſſaria adminiſtrare, & paci eorum ac quieti conſulere. De quorum omnium Moribus ad nos ſpectat examen, ſi vivunt continenter, ſi honeſte ſe habent ad eos qui foris ſunt, ſi in Divinis Officiis ſolliciti, ſi in docendo populo aſſtant, ſi victu ſobrii, ſi moderati habitu, ſi in Judiciis ſunt diſcreti,* &c. *Ego Conſtantini, vos Petri gladium habetis in manibus; jungamus dextras, gladium gladio copulemus, ut projiciantur extra craſtra leproſi,* &c. 2. From the Statute of *Magna Charta*, c. 22. *We ſhall deny nor defer to no man juſtice or right*; to wit, neither in Civil nor Eccleſiaſtical things or cauſes, the words being general, and extending equally to both, as this *Charter doth, both to all Eccleſiaſtical and temporal perſons, Freemen of the Realm of* England, c. 1, & 2. 3. From this uſual recital in our Kings Writs: (*u*) **Nos qui ſingulis de Regno noſtro in exhibitione juſtitiæ ſumus debitores: Nos volentes quibuſcunque legis noſtris in Curiis noſtris plenam, & celerem Juſtitiam exhiberi.** *Precipimus,* &c. *Juſticiæ complementum ſibi fieri & nullatenus differri,* &c. *ſecundum legem & conſuetudinem Regni noſtri.* 4. By the Statute of *Weſt.* 2. An. 13 E. 1. c. 24, 25, 30. which enacts, that where a Writ is granted out of the *Chancery* for a thing done to the noyſance of another, the Plaintiffs from henceforth ſhall not depart out of the Kings Courts without remedy, becauſe in the Regiſter of the *Chancery* there is no ſpecial Writ found in his Caſe; but from henceforth, where in one caſe a VVrit is granted, **In like caſe when like remedy falleth**, the Writ ſhall be made as hath been uſed before: and from henceforth, **as often as it ſhall fortune in the Chancery**, that in one caſe a VVrit is found, **and in like caſe, falling under like Law, and requiring like remedy, there is found none; the Clerks of Chancery ſhall agree in making the Writ**, or the Plaintiffs may adjourn

(*u*) Regiſter of Writs *pars* 2. f. 10, 15, 38, 127, 189. Fitz. Nat. Bre. f. 153, 154, &c. See the 2d Part of my Sovereign Power of Parlaments P. 79, 80.

journ it till the next Parliament; and by consent of men learned in the Law, A (new) Writ shall be made (according to his special new Case) lest it should happen afterwards, that the Kings Court should fail to minister Justice unto Complainants. And lest Suiters coming to the Kings Court should depart from thence without remedy, they shall have Writs provided in their Cases: By vertue of which Statutes, the Subjects grieved, have usually had, not only a VVrit grounded thereon, particularly stiled (*x*) *in consimili casu*, but *many other writs, as appeareth in our Books*, though *they bear not that name*. And by vertue thereof, I am cleer of Opinion, the *Parishioners may have a special Writ against their Vicar* in this very *Case*, to enjoyn him to *administer the Sacrament* of *Baptism and the Lords Supper to them and their Children*, to *admit them thereunto*, as well as a VVrit *De Clerico admittendo, to the Bishop*, and *De Attornato recipiendo, to the Sheriff*, upon the Statute of *Merton, c.*10. when they refuse to admit them *contrary to our Laws*. 5. From the ancient VVrit of *William the Conqueror* to (*y*) *Remigius* Bishop of *Lincoln*, and all other Bishops and Archdeacons: *Willelmus Dei Gratia*, &c. *Propterea mando & regia auctoritate præcipio, ut nullus* Episcopus, *vel* Archidiaconus *de Legibus Episcopalibus amplius in* Hundret, *placita, teneant*, &c. And from his Jurisdiction over all Ecclesiastical persons and causes thus recorded by *Eadmerus*, Hist. novorum, l.1. p.6. *Cuncta ergo divina simul & humana ejus nutum expectabant. Non ergo pati volebat quenquam in omni Dominatione sua constitutum, Romanæ Urbis Pontificem, pro Apostolico, nisi se jubente recipere, aut ejus literas si primitus sibi ostensæ non fuissent nullo pacto suscipere. Primatum quoque regni sui*, Archiepiscopum *dico* Cantuariensem, *si coacto generali* Episcoporum Concilio *præsideret*, Non sinebat quicquam statuere vel prohibere, *nisi qua sua voluntati accommodata, & à se primo essent ordinata. Nulli nihilominus Episcoporum concessum iri permittebat, ut aliquem de*

Baronibus

(*x*) *Fitz.* Brief 283, 309, 794, 807, 810, 849, 947. & Entree 3, 7, 8, 61, 68. Nat. Br. f. 206, 207. 38 H. 6. 3, 12, 30. *Cook* l. 8. f. 49. Instit. 2. f. 405, 407, 486.

(*y*) *Cart.* 2. R. 2. m. 12, n. 5. *Fox* Acts & Mon. l. 4. p. 154. *John Seldeni ad Eadmerum* Notæ, p. 167.

Baronibus ſuis, ſeu Miniſtris, ſive inceſto, ſive adulterio, ſive aliquo capitali crimine denotatum, publicè niſi ejus præcepto implacitaret, aut excommunicaret, aut ulla Eccleſiaſtici rigoris pœna conſtringeret: Therefore much leſs would he permit any Biſhop or Miniſter under him to ſuſpend or ſeclude them from the *Sacraments*, (eſpecially thoſe no wayes guilty of ſuch ſcandalous ſins or other crimes) as now our *Miniſters* do their *Pariſhioners*, without any divine, regal, or legal Authority, but their own Papal Uſurpation, Pride or Peeviſhneſs.

6. This is moſt apparent by the uſual known printed Writs of our Kings to relieve their *grieved Subjects* both in Civil and Eccleſiaſtical Courts and things; as namely, the VVrits (*b De Procedendo ad Judicium*, when any Judge or Court of Juſtice delayes the Plaintiff or Defendant of his right, in not giving Judgement for them, when, and ſo ſpeedily as they might. (*c*) *De Libertatibus allocandis*, when the Juſtices of the King, *Eyre* or *Foreſt*, deny or delay to grant any Burrough or Perſon the ancient Liberties they formerly enjoyed by Charter or preſcription. The VVrit (*d*) *De Leproſo amovendo* to the *Major of London*, and other Officers, to remove Lepers which infect the people; and, *De villis & venellis mundandis*, when they neglect to remove the one, & cleanſe the other, as they ought. *The ſeveral* (*e*) *Writs to Sheriffs and others, to repair Highways, Bridges, Walls, Sea-banks, and the like*, extant in the *Clauſe and Patent Rolls*, before any Statutes made for their *repair*: The Writs (*f*) *De reparatione facienda, de Curia claudenda, & quod permittat*, to particular perſons to repair houſes and fences, when they neglect to do it, and are bound thereto by Law, and to enjoy their Commons, Rights, *&c.* The VVrits *De Attornato recipiendo, De moderata miſericordia, De ſecta ad molendinum & curiam, De ne injuſta vexes, De non ponendo in aſſiſis & juratis, Quod Clerico non eligantur in Officium Ballivi*, &c. *De corrodio habendo, Quo Jure, Vi laica removenda*: VVith many other VVrits of this nature

(b) *Fitz. Nat. Bre. f.* 153, 154. *Regiſt of Writs.*

(c) *Fit. Nat. Bre. f.* 229. *Regiſter of Writs.*

(d) *Regiſter of Writs Fit. N. Br. f.* 234. *Clauſ.* 20 E 3. *part* 1. *m.* 18. 14.

(e) *Pat.* 11 E. 1. *pars* 1. *dorſ.* 2. *Pat.* 18. E. 1 *m* 4, 5. *& dorſ.* 8 9, 44. *Clauſ.* 4. E. 3 *m.* 2. *Clauſ.* 11. E. 3. *pars* 2. *m.* 10. *Clauſ.* 48. E. 3. *m.* 22. *Clauſ.* 10. E 3. *m.* 28.

(f) *Fit. Nat. Br. f.* 228, 229, 163, 161.

to temporal Officers, persons: by these ensuing VVrits to *Ecclesiastical persons*; as namely, *the usual Writs to Bi-*
(g) Fit. Nat. Br. f. 38, 30, 63, 64 65. and the Register of Writs. *shops* (g) *Ad admittendum Clericum, & de cautione admittenda; to enforce them to admit Clerks, and absolve excommunicate persons upon caution tendered, when they refused to do it against right and Law.* To which I shall add, *Clauſ.* 24. *E.* 1 *dorſ.* 10. & 8. *Clauſ.* 32. *E.* 1. *dorſ.* 9. *Clauſ.* 33. *E.* 1. *dorſ.* 16. *Clauſ.* 34 *E.* 1 *dorſ.* 10. *Clauſ.* 8. *E.* 2 *m.* 25. *Clauſ.* 20. *E.* 2. *dorſ.* 10, 11. *Clauſ.* 7. *E.* 3. *pars* 2. *m.* 4. *Where ſeveral Writs are directed to the Biſhops and Clergy-men, to make ſpecial Prayers and Supplications for the King and his children, the Nobles and State of the Realm, upon ſeveral occaſions, in times of war and danger; to make ſpecial thanksgivings for Victories, and interceſſions for eminent perſons Souls departed*, as they were then obliged to do in thoſe times of Superſtition. *Cart.* 16. *Joan. dorſ.* 10. A VVrit to the Chapter of *York*, not to elect *S. de C.* for their Archbiſhop, *quia eſſet contra honorem noſtrum & commodum Regni noſtri, Pat.* 18. *H.* 3. *m.* 7. *Clauſ.* 26. *H.* 3. *m.* 12. *Pat.* 29. *H.* 3. *dorſ.* 5. *Pat.* 9. *E* 1. *m.* 2. *Pat.* 25. *E.* 1. *pars* 1. *m.* 9, 10. *Pat.* 8. *Joan. m.* 1. where *King John, Henry* 3, *and Eward* 1. by their ſpecial *Writs*, prohibited the Archbiſhops, Biſhops, and Clergy in their *Counſels and Synods to do, act, enact, or aſſent to any thing concerning their Crown, Perſon, State, Counſel, or againſt their royal Crown, Dignity, or the Rights of the Realm of* England; *and to revoke, ſuſpend the Counſels and Convocations ſummoned by the Archbiſhop, under pain of forfeiting all their goods, and ſeiſure of their Baronies*, Clauſ. 41. H. 3. pars 1. dorſ. 5. A VVrit to *Walter* Biſhop of *Dureſm*, reciting, *That none ought to judge the Laws of the Realm, but the King, and his Nobles and Judges; that if he preſuming on his Royal Liberties, did otherwiſe, ipſas Libertates regales, ad nos per veſtrum abuſum conſemus devolvendas*, Clauſ. 16. E. 1. dorſ. 2. A VVrit to the Biſhop of *London* injoyning him *no longer to permit any perſons to come and worſhip* quandam Tabulam, (*having*

divers

divers pictures in it, and the Earl of Lancaſters *amongſt others) which they worſhipped and adored, tanquam rem ſue ſanctum, abſq; authoritate Eccleſiæ Romanæ:* with ſundry ſuch-like Writs to Biſhops and Clergy-men in our Records, the grounds whereof extend to our preſent caſe. And *Claus. 4. H. 3. m. 10.* A Writ of prohibition to the Archbiſhop of *York*, *not to excommunicate ſome who hurt and moleſted the* Cruce-ſignati, *becauſe the* Cruce-ſignati *had no title to the Lands.* But that which comes neereſt to our caſe, and is the ſame in ſubſtance, (*Confirmation and Chriſm* being formerly reputed **Sacraments amongſt us in time of Popery*) is this memorable caſe, recorded in *Rot. Claus. An. 26. E. 3.* The Biſhop of *Exeter* would have viſited the Church of St. *Burian* in *Cornwal*, founded by King *Arthur*, and exempted from *Epiſcopal juriſdiction:* whereupon, they oppoſing his viſitation, *the Biſhop interdicted the Pariſh, and refuſed to give them oyl and chriſm to baptize their Infants, or to confirm their children:* upon complaint whereof to the King, *there iſſued a Writ out of the Chancery to the Biſhop*, commanding him *to abſolve them, confirmare parvulos, & chriſma mittere*, to confirm their Children, & ſend them Chriſm to baptize their Infants. This Record was vouched and ſhewed to the Judges of the King's Bench, *Mich. 17 Jacobi*, upon this occaſion: The *Pariſhioners* of a Village in *Kent*, elected a Churchwarden according to their ancient cuſtom, but the *Biſhops Official refuſed to admit him*; whereupon the *Pariſhioners*, by M. *Noy* their Counſel, *moved in the Kings Bench for a Writ and Mandamus to the Official, to admit the Churchwarden, or if he did not, to ſhew good cauſe to the Court why he refuſed to do it*; *which the Court upon view of this preſident granted them, and upon it the Churchwarden was admitted to his Office:* If then our Kings, and their Courts of *Chancery* and *Kings Bench* might enjoyn this *Biſhop* and this *Official* by ſpecial *Writs* and *Mandates* to abſolve theſe interdicted *Pariſhioners*, confirm their Children, & ſend them Chriſm to baptiſe their Infants,

* See *Lindewood*, *Summa Angelica*, *Roſſella*, & *Thomas Zerula Praxis Epiſcopal.* 1 Tit. *Chriſma & Confirmatio* Sacramentum.

and to admit the Churchwarden the others had choſen according to their duties, by the Statutes of 13 *E.*1. *c.* 24,25,50. forecited, or by their own inherent juriſdiction without any *ſpecial Act of Parliament*, being things to which they were obliged by our Laws & their very offices, duties to perform; then by the ſelf-ſame Law and Reaſon, may our Kings, and Courts of Juſtice upon all occaſions, by vertue of theſe Statutes, whereon theſe *Writs* were principally grounded, iſſue forth the like *Writs* and *Mandates* to all *Miniſters* and *Vicars*, who refuſe perſonally *to baptize* or *deliver the Lords Supper* to their *Pariſhioners* at due & accuſtomed ſeaſons, or to *admit* them freely to thoſe *Sacraments*, according to their bounden duties, to which their very Office with the Laws of God & the Realm oblige them, unleſs they can ſhew a legal cauſe to the contrary, (as none of them can do) and in caſe they refuſe to do it, they may thereupon be attached, fined, impriſoned, till they do conform and aſſent to do it; as well as in the Caſe of a * *Quid Juris clamat*, or *Per quæ ſervicia*, by which any tenant where *he is bound and adjudged by Law to attorn, & refuſeth to do it, ſhall be impriſoned till he actually attorn in proper perſon*; (*not by Deputy*, which the Law will not admit) it being a *perſonal* duty, not performable by any other. I ſhall conclude this with that memorable Record of *Pat.*8.*E.* 1.*m.*27. where the *King* by his *Writs*, commanded all his *Sheriffs, Bayliffs, and Lieges, effectually to ſummon, admoniſh and induce all the Jews within their Bayliwicks, diligently to meet together to hear* God's word *preached to them by the Friers Predicants without tumult, contention or blaſphemy, and not to hinder any Jews from converſion whoſe hearts God ſhould pleaſe to convert*, as you may read at large in the 2 *Part of my ſhort Demurrer to the Jews long diſcontinued Remitter into* England, p.87,88. And if our Kings by their *Writs* might lay ſuch Injunctions on the *unbelieving* Engliſh Jews, much more may they enjoyn all Engliſh Miniſters to adminiſter the *Sacraments* to their peo-

* 37 H: 6. 14 Brook, *Quid Juris clamat* 18. Impriſonment 26. 3 E. 3. *Per quæ ſervitia*, Fitzh. 17. Aſh Attornment 9. & 11.

people, and not to hinder any of them *from this* * *means of their spiritual conversion, as well as confirmation*; and likewise command the people diligently to frequent and receive them, especially when so long discontinued, neglected, slighted, denied, to Gods dishonor, Religions scandal, our Churches infamy, good Christians greatest grief, the grand encrease of impiety, prophaneſs, ſchiſm, and decreaſe of Chriſtian amity, unity, zeal, that cordial brotherly love and ſweet communion which was between Miniſters and their people, and between private Chriſtians heretofore when *Sacraments* were more frequent. Finally, If any *Parſon* or *Vicar* for 2 yeers ſpace refuſe and ceaſe to *adminiſter the Sacrament* to his *Pariſhioners*, (as many of late times have done) I conceive a *Writ of Ceſſavit* will lie *againſt him by the Patron upon the Stat.* of *Weſt.* 2. 13 *E.* 1. *c.* 41. as *Fitzh. Natt. Brev.* f. 209 *L.* 5 *E.* 3. 25. b. *Regiſter* f. 238. *Fit. Ceſſavit*, 12, 18, 24. 12 *H.* 4. 24. 45 *E.* 3. 10. *Ploud.* f. 58. *Cook* 4. *Rep.* f. 118. 11. *Rep.* f. 63. & 2. *Inſtit.* f. 460. more then intimate, if not fully reſolve. Theſe legal remedies, if purſued in a juſt and Chriſtian way, may through Gods bleſſing reduce many *refractory Parochial Miniſters* and *Vicars*, to the due *adminiſtration* of the *Sacraments* to their *Pariſhioners*, which too many of them have of late, totally, & divers in a deplorable meaſure caſt off; reſtore the comfortable, frequent enjoyment of them to thoſe *Pariſhioners* who have a long time earneſtly thirſted after them, and prevent the *Anabaptiſtical, Jeſuitical deſign of* (g) *John Canne* with his *Fraternity*, and others of late yeers crept into *Parochial Cures*, of purpoſe to ſubvert them, with all other *Parochial Congregations*, and all *Patrons* rights to preſent unto them: a deſign moſt eagerly proſecuted, publikely allowed, and much advanced of late yeers by unchriſtian and illegal practices, gilded over with religious pretences: this is the Opinion and Judgement (in anſwer to your *Caſe* and *Quares*) of your Friend and Counſellor,

Will. Prynne.

Lincolns Inne, 20 *Junii*, 1656.

An

* *See my Anſwer to 4 ſerious queſtions, my ſuſpenſion ſuſpended, Mr.* Humfrey *his Reply to Dr.* Drake *his ſecond Vindication of Orthodox ſpice Admiſſion*, p. 58, 59. *Mr.* Blake, *his Covenants ſealed*, ch. 7. ſect. 13, 14.

(g) *His* Voice from the Temple. *See my* Jus Patronatus.

AN APPENDIX.

Our Vicars and Miniſters refuſal to adminiſter the Sacraments to their Pariſhioners, is in truth an actual penal ſuſpenſion and excommunication of them and their Infants from the Lords Supper *and* Baptiſm, *without any precedent citation, articles, legal proceeding, hearing, or ſentence denounced againſt them in any Eccleſiaſtical Claſſis or Judicature, againſt all rules of Religion, Conſcience, Law, Juſtice, and the expreſs Letter of* Magna Charta, *c.* 29. *Wherefore, as King* Edw. 1, 2, & 3. *did iſſue forth ſeveral Writs and Mandates to their Biſhops and Clergy, not to convent, queſtion, cenſure, excommunicate any of their Officers or Subjects within their Dominions, for diſcharging their Duties, & duly obeying their Mandates, and to abſolve all thoſe they had excommunited upon this account; and likewiſe iſſue out Writs to their Sheriffs. De promulgantibus ſententiam excommunicationis in Miniſtros Regis capiendis & impriſonandis, for obeying their commands: So by like Juſtice, Reaſon, may Writs be iſſued to all thoſe Vicars and Miniſters who deny* the Sacraments to their Pariſhioners, *without any legal cauſe or ſentence of ſuſpenſion or excommunication firſt denounced againſt them, commanding them peremptorily to admit them to, and adminiſter the Sacraments duly to them; yea, Writs to the Sheriffs to attach and impriſon them in caſe of their wilful neglect or contempt herein,* Clauſ. 12. E. 2. m. 20. The Archbiſhop of *York and his Miniſters, oppreſſed, vexed the people of his Dioceſs in his Courts and Viſitations, by malicious citations for pretended adulteries, and other Eccleſiaſtical crimes, before they were publickly defamed of, or preſented for them, and for which they could not aid themſelves by the* Kings prohibition, *they having legal conuſans of theſe crimes: upon Petition to the King and his Counſel againſt theſe malicious citations, by the people, there iſſued a ſpecial Writ to the Biſhop, reciting and prohibiting ſuch citati-*

Pat. 25. E. 1. pars 1. m. 9, 10, 12. pars 2. m. 5. Clauſ. 25. E. 1. dorſ. 6. Clauſ. 30. E. 1. dorſ. 14. Clauſ. 12. E. 2. m. 12. Clauſ. 15. E. 3. pars 1. dorſ. 39, 40.

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ons and proceedings for the future; De oppressionibus populo per citationes non inferendis. *By like reason and equity may special Writs now be granted to Ministers, not to oppress, vex, injure their Parishioners, (especially such as are neither scandalous, ignorant, nor actually excommunicated) by depriving them of the Sacraments at due and accustomed seasons, far worse then those* malicious citations, *which were but* Ecclesiastical *process, when as these amount at least to* Ecclesiastical *censures, suspensions, excommunications from the Sacraments, & that for sundry months, nay, years, of many whole Cities and Parishes, without any legal accusation, conviction, hearing. In times of popery, if any religious person or Monk professed,* departed from his house, and wandred abroad in the Country, *against the rules of his Religion or Order, upon a certificate thereof in* Chancery *by the Abbot, there issued a Writ* de * Apostata capiendo (*of which I finde* * many presidents in our Records) *for the Sheriffs to apprehend and deliver him to his Abbot or his Attorney, to be chastised according to the rules of his Order. And if any Priests wore long hair (against the Canons and rules of their Order in the Kings Court, where the Ordinaries had no power to reform them, the King himself granted a special Writ and commission to certain persons, giving them* plenam potestatem scindendi capillos Clericorum qui sunt in Hospitio nostro, & familia nostra longos crines habentium, & capillos nutrientium, *&c.* Pat. 21. H. 3. dor. 3. *By the like and better reason then may special Writs be issued, to reduce Ministers offending in, and apostatizing from the very essential duties of their function,* (*not in circumstantials only, as these in former times*) *to the due execution of the duties of their function, and administration of the Sacraments to their Parishioners, according to the rules of their Order, the Statutes of the Realm, the Doctrine, customs of the Church of* England *so much now slighted, contemned by them, to Gods dishonor, the vilipending of their Ministery, function, yea, the Sacraments themselves, and their peoples grief, offence and spiritual prejudice, who may doubtless have a* * special action at law against *them on the Stat. of* 1 Ed. 6. & 1 Eliz. c. 2. *for their relief herein.*

* The Register, Tit. Nat. Brev. 233, 234.

* Pat. 25. H. 3. dors. 8. Pat. 39. H. 3. m. 10. Pat. 47. H. 3. pars 1. m. 20. Pat. 49. H. 3. m. 2. Pat. 53. H. 3. m. 31. Pat. 54. H. 3. m. 28. Pat. 1. E. 1. m. 19 Pat. 4. E. 1. m. 29. Pat. 9. E. 1. m. 22. Clauf. 12. E. 2. dors. 12. Clauf. 25. E. 3. pars 1. dors. 14.

* See Brook, Fitzh. Ath. *Action sur le Statute.*

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The Sacraments of Baptism *and the* Lords Supper *are bequeathed by Christ to all visible Members of every visible* Church, *as* visible, *(who are known to their Ministers) not to the elect, invisible, regenerated Members only, infallibly* (a) known to God alone, but not to any mortals: *Every Member of a visible* Church, hath an equal right to, and (*b*) in all Sacraments, Ordinances, Priviledges of the visible Church, as he is a Member of it, by vertue of his Membership; *as* (*c*) all Freemen of England *have an equal interest in all the* Laws, Rights, Liberties, Franchises of the Realm of *England*, as they are native Freemen of the Body politick of *England*.

(a) 2 *Tim.* 2. 19. 1 *King.* 8. 39. 2 *Chron.* 6. 30.

(b) *Eph.* 2. 13, to 22. *c.* 4. 4, 5, 16. *Col.* 3. 11. 1 *Cor.* 10. 1, 2, 3, 4. *c.* 6. 17, 18. *c.* 3. 21, 22, 23.

(c) Magna Charta, *c.* 29. *The Petition of Rights* 3 *Caroli* 5 *E.* 3. *c.* 9. 25 *E.* 3. *c.* 4. 28 *E.* 3. *c.* 3. 47 *E.* 3. *c.* 18. 42 *E.* 3. *c.* 3.

As therefore no English Freeman may or can by Law be debarred from the use and benefit of the common Laws, Liberties and Franchises of England, or any pretended or real crimes, but by and upon a legal conviction, and judgement according to the Laws of England; so no member of the Church of *England (of ripe Years, and in his right Senses)* may or can be debarred from the Lords Table, *or any other* publick Ordinances, Priviledges of the Church of *England*, *for any pretended scandal, but by a* judicial legal sentence of Excommunication, *whereby he is actually suspended or cut off from being a Member of the Church for the present: his very Membership, whiles he is a* Member, *entituling him* of Right to whatever Ordinances any other Members enjoy, and to participate with them therein. *It is therefore as* great, *as* high an Injury, Injustice, Tyranny, *for any* Ministers whatsoever, *to* deny, seclude, all or any of their Parishioners from receiving the Lords Supper, *upon any pretext of* scandal, ignorance, unpreparedness, or for fear those who are scandalous and unregenerate, should participate with such who are regenerated, if they should permit the Eucharist to be frequently celebrated, without or beside any real accusation, conviction, and excommunication of them by any legal Ecclesiastical Jurisdiction; *as for any Judge or temporal Officer to* outlaw, imprison, banish, disinherit all or any of them of their hereditary Franchises, Liberties, Free-holds, without the least legal Indictment, Trial, or Judgement by their Peers for any real or pretended crimes, or misdemeanors surmised or suggested against them: *and therefore* not patiently to be tolerated *any longer, but* suddenly reformed, reduced *by all legal means and lawful civil Power, without partiality or connivance; who ought to be as careful of the peoples* spiritual Food *and* Priviledges, *as of their Ministers* Tythes and Duties; *and to do equal right to both.*

FINIS.

FH

MVSEVM

BRITANNICVM